

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

JASON CLIFFORD CONWAY,	§	
Petitioner,	§	
	§	
VS.	§	C.A. NO. C-06-356
	§	
DOUGLAS DRETKE, Director TDCJ-ID,	§	
Respondent.	§	

**MEMORANDUM OPINION AND ORDER DENYING WITHOUT PREJUDICE
MOTION FOR APPOINTMENT OF COUNSEL ON APPEAL**

Petitioner is an inmate in the Texas Department of Criminal Justice - Institutional Division, and is currently incarcerated at the McConnell Unit in Beeville, Texas. Proceeding *pro se*, petitioner filed a petition pursuant to 28 U.S.C. § 2254, challenging a disciplinary conviction. Final judgment dismissing the petition with prejudice was entered on February 9, 2007 (D.E. 11). Petitioner timely filed notice of appeal (D.E. 13). Pending is petitioner's request for appointment of counsel on appeal (D.E. 14).

There is no constitutional right to counsel in federal habeas proceedings. *Johnson v. Hargett*, 978 F.2d 855 (5th Cir. 1992). *See also United States v. Riggs*, 314 F.3d 796, 799 (5th Cir. 2002) (right to appointed counsel does not extend to post-conviction proceedings). Rule 8 of the Rules Governing § 2254 Cases requires that counsel be appointed if the habeas petition raises issues which mandate an evidentiary hearing. Counsel may also be assigned if discovery is ordered and issues necessitating the assignment of counsel are evident. Rule 6(a) of the Rules Governing § 2254 Cases; *Thomas v. Scott*, 47 F.3d 713, 715 n. 1 (5th Cir. 1995). Finally, the district court has discretion to assign counsel in the interest of justice. 18 U.S.C. § 3006A(a)(2).

In this case there was no evidentiary hearing held and no discovery requested or permitted. Petitioner has shown no extraordinary circumstances warrant assignment of counsel

on appeal in the interests of justice. Accordingly, petitioner's motion for appointment of counsel on appeal (D.E. 14) is denied without prejudice.

ORDERED this 8th day of March, 2007.



B. JANICE ELLINGTON
UNITED STATES MAGISTRATE JUDGE